

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 25153 Permit 17828 License

**ORDER TO ADD POINTS OF DIVERSION, CHANGE
DESCRIPTION OF PLACE OF USE, ADD PERMIT TERM,
APPROVE A NEW DEVELOPMENT SCHEDULE, AND AMEND THE PERMIT**

WHEREAS:

1. Permit 17828 was issued to Allen A. Costa and Joyce A. Costa on February 11, 1980 pursuant to Application 25153.
2. Permit 17828 was subsequently assigned to Cornelius de Jong Dairy Farms, Inc..
3. A petition to add points of diversion on Cottonwood Creek, and change the description of place of use, and a petition for an extension of time within which to develop the project and apply the water to the proposed use have been filed with the State Water Resources Control Board (SWRCB).
4. The SWRCB has determined that the petitioned changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The permittee has proceeded with diligence and good cause has been shown for said changes and for the extension of time.
6. The permittee and Department of Fish and Game (DFG) have agreed to enter into a stream bed alteration agreement on July 7, 1995 and August 25, 1995 to mitigate for impacts on riparian habitat of Cottonwood Creek under Permit 17828.

A SWRCB staff report dated March 4, 1996 determined the addition of the two points of diversion to be located on Cottonwood Creek under Permit 17828 will have no adverse environmental impact. Staff therefore recommends the inclusion of standard Permit Term 63 requiring stream bed alteration agreement with DFG be included in this Order.

7. Permit Condition 10 pertaining to the continuing authority of the SWRCB should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 2 of the permit be amended to read:

Location of Points of Diversion:

South 1,340 feet and East 1,300 feet from the NW corner of Section 10, T17S, R25E, MDB&M; being within the SW¼ of NW¼ of said Section 10, also described as California Coordinate System, Zone 4, North 413,200 and East 1,925,250.

North 1,950 feet and East 1,320 feet from the SW corner of Section 11, T17S, R25E, MDB&M; being within the NW¼ of SW¼ of said Section 11, also described as California Coordinate System, Zone 4, North 411,300 and East 1,929,500.

North 1,800 feet and East 1,750 feet from the SW corner of Section 11, T17S, R25E, MDB&M; being within the NE¼ of SW¼ of said Section 11, also described as California Coordinate System, Zone 4, North 411,100 and East 1,929,100.

2. Condition 4 of the permit be described as follows:

197 net acres within a gross area of 668 irrigable acres in Sections 10, 11 and 14, T17S, R25E, MDB&M; as shown on a map on file with the SWRCB.

3. Condition 7 of the permit be amended to read:

Complete application of the water to the authorized use shall be made by December 31, 2000. (0000009)

4. Condition 10 of this permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.


The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

5. Condition 14 is added to this permit as follows:

In accordance with Section 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the new diversion works and no water shall be diverted under this permit at the new diversion works until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

Dated: JUNE 19 1996

for 
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17828

Application 25153 of Allen A. Costa and Joyce A. Costa (OVER)
36813 Road 144, Visalia, California 93277

filed on September 20, 1976, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Cottonwood Creek

Cross Creek thence

Tule River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>S1340 ft and E1300 ft from NW Corner of Section 10</u>	<u>SW 1/4 of NW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>

County of Tulare

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>Irrigation</u>	<u>SW 1/4 of SW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>	<u>36</u>
	<u>SE 1/4 of SW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>	<u>36</u>
	<u>NW 1/4 of SW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>	<u>36</u>
	<u>NE 1/4 of SW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>	<u>17</u>
	<u>SW 1/4 of NW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>	<u>36</u>
	<u>NW 1/4 of NW 1/4</u>	<u>10</u>	<u>17S</u>	<u>25E</u>	<u>MD</u>	<u>36</u>
					<u>TOTAL</u>	<u>197</u>

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 2.46 cubic feet per second to be diverted from January 1 to October 1 of each year. The maximum amount diverted under this permit shall not exceed 735 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the proposed use shall be made on or before December 1, 1983. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. The permittees shall install a measuring device satisfactory to the State Water Resources Control Board which is capable of measuring the quantity of water diverted from Cottonwood Creek. Such measuring device shall be properly maintained. (0060999)

13. During the period between January 1 and October 1 if, in the absence of permittee's diversion, hydraulic continuity would exist between permittee's diversion point and Lakeside Ditch Company, permittee shall not divert water but shall open his diversion works and allow the water to flow undiminished downstream. (0000110)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: FEBRUARY 11 1980

STATE WATER RESOURCES CONTROL BOARD

Walter G. Pettit
Chief, Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25153

PERMIT 17828

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 7 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1988 (0000009)

2. Paragraph 10 of this permit is deleted. A new paragraph 10 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: JULY 1 1986


Lloyd Johnson, Interim Chief
Division of Water Rights

P17828

1-6-81 Asgd to John & Ann Wind

4/20/89 Asgd to Cornelis Dejong
Dairy Farms Inc.

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